

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

OXYSURE SYSTEMS, INC.,

Plaintiff,

VS.

**CHRISTOPHER F. CASTALDO, JERRY
CASTALDO, AND WALL STREET BUY
SELL HOLD, INC.,**

Defendants.

Civil Action No. 4:15-cv-00324-ALM

ORDER

BEFORE the Court is Plaintiff Oxysure Systems, Inc.’s *Motion for Default Judgment and to Strike all of Wall Street Buy Sell Hold’s Defenses and Motion Papers* (namely, those raised in opposition to Plaintiff’s Motion for Summary Judgment). On May 17, 2016, this Court Ordered that Wall Street Buy Sell Hold Inc.’s counsel of record, Mr. Scott Smith, could withdraw, and cautioned Wall Street Buy Sell Hold that it would have thirty days to appoint new counsel. Wall Street Buy Sell Hold, Inc. thus had until June 16, 2016, to enter an appearance via proper counsel. It has failed to do so.

It is well-established that a corporate litigant must be represented by Counsel, it cannot appear *pro se*. See *Rowland v. California Men's Colony*, 506 U.S. 194, 202 (1993); *Southwest Express Co. v. ICC*, 670 F.2d 53, 55 (5th Cir. 1982). Where, as here, the Court has warned a corporate litigant that it must retain counsel within a reasonable period of time, and counsel is not appointed and does not appear, then the Court is authorized to strike the pleadings and moving papers of that litigant as not properly before this Court. *Id.*; *Donovan v. Rd. Rangers Country Junction, Inc.*, 736 F.2d 1004, 1005 (5th Cir. 1984) (holding that “[defendant

corporation] declined to hire counsel to represent the corporation so the district court properly struck the defenses of the corporation.”); *AK-BBN Corp. v. Black Horse Energy LLC*, No. 3:13-CV-0134-O-BH, 2014 U.S. Dist. LEXIS 61896, at *4 (N.D. Tex. Apr. 14, 2014) (“Here, Plaintiff’s individual principal has been specifically advised that a corporation may only be represented by licensed counsel, and that the lack of an entry of appearance by counsel on Plaintiff’s behalf within twenty days would result in a recommendation that its claims be dismissed. Because no attorney has entered an appearance on behalf of Plaintiff in this case, and its individual principal may not represent it pro se, its claims are subject to dismissal.”). The Court is also authorized to enter default judgment in favor of the other party. *Id.*

Defendants were given thirty days to have counsel appear for Wall Street Buy Sell Hold, Inc. Accordingly, Wall Street Buy Sell Hold, Inc. is not properly before this Court and its pleadings, and motion papers must be stricken and default judgment entered in favor of Oxysure.

IT IS THEREFORE ORDERED that all pleadings and pending motions and responses filed by or on behalf of Wall Street Buy Sell Hold, Inc. are hereby STRICKEN in their entirety;

IT IS FURTHER ORDERED that the clerk shall immediately enter default against Wall Street Buy Sell Hold, Inc. and judgment shall be rendered on behalf of Oxysure Systems, Inc. as against Wall Street Buy Sell Hold, Inc. on all claims.

IT IS SO ORDERED.

SIGNED this 20th day of July, 2016.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE